

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

NICHOLAS LAVIGNE,

Petitioner,

v.

FEDERAL BUREAU OF PRISONS,  
WARDEN H.J. MARBERRY,

Respondents.

Civil Action No. 06-258 Erie

**MEMORANDUM ORDER**

This petition for writ of habeas corpus was received by the Clerk of Court on November 6, 2006 and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. On April 20, 2007, Petitioner filed an amended petition for writ of habeas corpus [17].

The Chief Magistrate Judge's Report and Recommendation, filed on October 3, 2007 [20], recommended that the amended petition for writ of habeas corpus be denied and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at FCI McKean, his last known address of record.<sup>1</sup> Petitioner has filed no objections to Chief Magistrate Judge Baxter's Report and Recommendation. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

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<sup>1</sup> Chief Magistrate Judge Baxter's Report and Recommendation indicates that Petitioner is no longer incarcerated at FCI McKean, according to the Federal Bureau of Prison's federal inmate locator. However, Petitioner has not provided the Court with the address of the facility in which he is currently incarcerated. Therefore, FCI McKean is his last known address of record.

AND NOW, this 6<sup>th</sup> day of November, 2007;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is DENIED and that no certificate of appealability shall issue.

The Report and Recommendation of Chief Magistrate Judge Baxter, filed on October 3, 2007 [20], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
SEAN J. McLAUGHLIN  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, Chief U.S. Magistrate Judge